

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

FAO No.3848 of 2002

Date of Decision.21.07.2017

Smt. Devinder Kaur and othersAppellants

Vs

Ranbir Singh and othersRespondents

2. FAO No. 3923 of 2002

National Insurance Co. Ltd.Appellant

Vs

Smt. Devinder Kaur and othersRespondents

Present: Mr. Atul Gaur, Advocate for
Mr. Sumeet Goel, Advocate
for appellants in FAO No.3848 of 2002
and for respondents in FAO No.3923 of 2002.

Mr. D.P. Gupta, Advocate
for the appellant in FAO No.3923 of 2002
and for respondent No.3 in FAO No.3848 of 2002.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

This order of mine shall dispose of two appeals arising out of the same accident bearing Nos.3848 of 2002 and 3923 of 2002. The former is at the instance of the claimants seeks enhancement of compensation and the latter is by the insurance company challenging the liability.

As regards the appeal filed by the insurance company, Mr. D.P. Gupta learned counsel appearing on behalf of the insurance company submits that the liability could not have been fastened upon the insurance company on the premise that there is no reference of eye-witness in the FIR. I am afraid the aforementioned argument would not be able to cut ice, for, specific question being raised as to whether the challan was filed, the

answer was in affirmative. Once the FIR was lodged and report under Section 173 Cr.P.C. presented, it must have reached to its logical end. Thus, I am of the view that such ground for seeking setting aside of the award is not sustainable and hereby rejected.

The appeal filed by the insurance company in FAO No.3923 of 2002 is accordingly dismissed.

As regards the appeal at the instance of the claimants for enhancement of compensation, the deceased was aged 47 years. The claimants are widow, two sons and mother. The mother has died during the pendency of the appeal. The deceased was stated to be working as Store Keeper in the Punjab Electricity Board and earning ₹7758/- per month.

The Tribunal while awarding the compensation, reduced the amount of ₹716/- as house rent from the salary of the deceased and took the salary as ₹7042/- per month and assessed the annual dependency at ₹63,378/- after deducting ₹21,126/- to be spent on personal expenses by the deceased. It adopted a multiplier of 13 to award a compensation of ₹8,31,000/-, which included ₹2000/- towards funeral expenses and ₹5000/- for loss of consortium.

Learned counsel for the appellants contends that the Tribunal has wrongly deducted the house rent from the income of the deceased, much less, did not provide increase in salary as future prospect. The other conventional heads of claim i.e. loss of consortium, loss of love and affection and funeral expenses were also assessed on lower side, thus, there is definite scope for enhancement.

On the contrary, learned counsel for the insurance company contends that the compensation assessed by the Tribunal is perfectly legal

and justified. There is no scope for further enhancement, thus, urges this Court for dismissal of the appeal.

In my view, as per the ratio decidendi culled out by Hon'ble Supreme Court in Sarla Verma Vs. DTC 2009(6) SCC 121, there is a definite scope of enhancement. The Tribunal has wrongly deducted the house rent from the salary of the deceased, therefore, I will take the income of the deceased as ₹7758/- per month. The deceased was in permanent employment and was aged 47 years, therefore, I will provide 30% increase in the salary as future prospect. I will adopt a multiplier of 13 to assess the annual dependency at ₹10,48,881/-. I will also add ₹1 lac towards loss of consortium, ₹2 lacs towards loss of love and affection for both children, ₹5000/- towards loss of estate and ₹25,000/- for funeral expenses.

The total compensation payable shall be ₹13,78,881/-. The amount in excess over what has already been awarded by the Tribunal shall also attract interest @6% from the date of filing of the appeal till the date of payment. The enhanced amount shall be distributed equally amongst the claimants. The liability shall remain the same as fixed by the Tribunal.

The award stands modified and the appeal in FAO No.3848 of 2002 is allowed to the above extent.

(AMIT RAWAL)
JUDGE

July 21, 2017
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No